

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





ORIGINAL

75-5019

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## United States Court of Appeals

For the Second Circuit.

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In the Matter of

CARTRIDGE TELEVISION, INC.,

Debtor-Appellee,

EDDIE L. THOMPSON, JR., ROBERT KELLER, EDWARD A.  
NEFF, SUE MANCINI, DAVID D. ACKERMAN, BILL  
COPSES, BILL DIANGIKES, JOHN F. MAGDA, J. HIRAM  
JOHNSON and DEAN ELLISON,

Appellants.

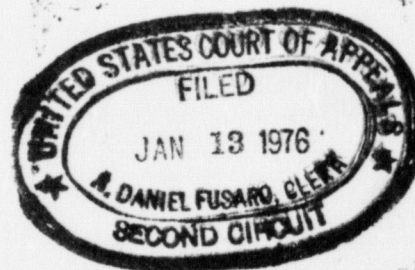
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## Joint Appendix

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Attorneys for Appellants  
270 Madison Avenue  
New York, N.Y. 10016  
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CLAIM NO. 533

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In the matter of

CARTRIDGE TELEVISION, INC.

Debtor

CLAIM NO. 533

In proceedings for  
an Arrangement  
No. 73 B 629PROOF OF CLAIM

The Claimants herein, pursuant to Rule 23 of the Federal Rules of Civil Procedure, which has been incorporated into the Bankruptcy Rules relating to Chapter XI proceedings, hereby file this Claim, as a Class Claim, in behalf of themselves and all other parties similarly situated and circumstanced. These allegations made on information and belief.

A- The Class represented by the Claimants herein are the stockholders of CARTRIDGE TELEVISION, INC., the debtor herein, who purchased their shares from the prospectus of July 13, 1971. The total value of the stock so purchased is approximately Twenty Million (\$20,000,000) Dollars.

B- The Class consists of diverse persons, firms, corporations and associations, the number of members thereof is not known with particularity but is believed to be about Ten Thousand (10,000) in number.

C- This Claim has been filed within thirty (30) days of the date of confirmation of a plan of arrangement. No plan of arrangement has been filed by the debtor and no Notice of Confirmation has been sent to the Claimants.



D- This Claim is timely filed pursuant to Section 355 of the Bankruptcy Act (11 USC 755a).

E- No notice of the requirement of filing of Proofs of Claim was given to the Claimants except that information with respect thereto was recently furnished to the Claimant's attorneys in connection with a Motion to Permit Continuance of a suit against the debtor.

F- The names and addresses of the Class Representatives and the amount of their individual claims are set forth herein.

NAME AND ADDRESS OF CLAIMANT	AMOUNT OF CLAIM	BASIS OF CLAIM
ROBERT KELLER, as Trustee, etc. c/o BADER and BADER 274 Madison Avenue New York NY 10016	\$4,000.00, plus Interest	Claimant is a defrauded stockholder as set forth in detail hereinafter and is entitled to the rights of a creditor "Pari Passu"
EDDIE L. THOMPSON, Jr. c/o BADER and BADER 274 Madison Avenue New York, N.Y.	\$63,625.00 plus Interest	see above

G- The business addresses of the Class Representatives are as follows:

<u>NAME</u>	<u>ADDRESS</u>
EDDIE L. THOMPSON, Jr.	17 North Main Street Inman South Carolina
ROBERT W. KELLER	80 Broad Street New York, N.Y.

H- This Claim arises from the fact that the debtor issued a prospectus for the Common Stock Purchase by the public of the said Common Stock of the debtor. This prospectus issued on July 13, 1971 and was false and misleading. An action was filed in this Court against the debtor on February 14, 1974 which date was less than three (3) years from July 13, 1971 and less than one (1) year

the discovery of the facts constituting the fraud. The Statute of Limitations with respect to the facts involving this Claim have been tolled as of February 14, 1974 by reason of the filing of a Class Claim in the United States District Court for the Southern District of New York. Details of the facts constituting the claim involved are set forth in the papers in the said Class Claim, Civil Action 74 Civil 731 MEF.

I- The Claimants do not hold any Security for this Claim.

J- The Claimants further contend that the claimed secured creditor, AVCO CORPORATION, is, in fact, not a Secured Creditor but is, in fact, a stockholder and that the so-called claim is actually a capital contribution to the debtor and is not entitled to the status of a creditor claim.

K- That no part of this Claim has been paid.

L- That there are no counter-claims or set-offs with respect to this Claim.

Yours ,etc.

TO: SHEA, GOULD, CLIMENKO & KRAMER  
Attorneys for Debtor  
330 Madison Avenue  
New York NY 10017

BADER and BADER  
Attorneys for Claimants  
and Class Involved  
274 Madison Avenue  
New York, N.Y. 10016  
Telephone 532-6860

#### VERIFICATION

STATE OF NEW YORK

ss:

COUNTY OF NEW YORK

EDDIE L. THOMPSON, JR. being duly sworn, deposes and says that he is one of the Claimants herein and one of the Class Representatives of the Class Involved; that he has read the



foregoing Proof of Claim and knows the contents thereof, that the same is true of his own knowledge, except as to matters stated therein to be alleged on information and belief and as to those matters he believes them to be true.

\_\_\_\_\_  
Eddie L. Thompson, Jr.

Swon to before me

this 24th day of July 1974

\_\_\_\_\_  
I. WALTON BADER  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 21-5140850  
Qualified in New York County  
Commission Expires March 30, 1976

CERTIFICATE OF SERVICE

I hereby certify that on July 24th, 1974 I served a copy of the foregoing Proof of Claim upon SHEA GOULD CLIMENKO & KRAMER, ATTORNEYS FOR DEBTOR by mail. This under penalties of perjury pursuant to the New York CPLR the undersigned being a member of the Bar of the State of New York.

\_\_\_\_\_  
I. Walton Bader

CLAIM NO. 534

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CLAIM NO. 534

In the matter of

In Proceedings for  
an Arrangement

CARTRIDGE TELEVISION, INC.

No. 73 B 629

Debtor

PROOF OF CLAIM

The Claimants herein, pursuant to Rule 23 of the Federal Rules of Civil Procedure, which has been incorporated into the Bankruptcy Rules relating to Chapter XI proceedings, hereby file this Claim, as a Class Claim, in behalf of themselves and all other members of said Class similarly situated and circumstanced. The Allegations of this Proof of Claim are made on Information and belief.

The basis of the Claim involved is as follows:

1-This Claim is an Individual claim in behalf of the Claimants set forth hereinafter; It is also a Class Claim in behalf of the Class set forth hereinafter.

2- The Individual Claimants are as follows:

NAME OF CLAIMANT	ADDRESS OF CLAIMANT	AMOUNT OF CLAIM
EDDIE L. THOMPSON, JR.	17 North Main Street x Inman South Carolina	\$295,844.83
EDWARD A. NEFF	2000 North Racine Avenue Chicago Illinois	unknown involved 300 shares of common stock of debtor
SUE MANCINI	1568 Union Commerce Building Cleveland Ohio 44115	\$3,862.00
DAVID D. ACKERMAN	1522 Bryant Avenue Bronx NY 10460	\$5,255.58



BILL COPSES	880 S. Pine Street Spartanburg S.C.	\$87,375.00
BILL DIANGIKES	880 S. Pine Street Spartanburg S.C.	\$23,175.00
JOHN F. MAGDA	3023 Avenue T Brooklyn NY 12229	\$1,350.00
J. HIRAM JOHNSON	P.O. Box 631 Lebanon, Tenn	\$22,012.50
DEAN ELLISON	354 S. Stonehenge Drive Columbia S.C. 29210	unknown

3- The Class represented by said Individual Claimants are those persons, firms, corporations and/or associations, who purchased the common stock of the debtor CARTRIDGE TELEVISION, Inc. from the date when the prospectus was no longer required for delivery to such purchasers until July 6th, 1973 the date of the filing of the Petition under Chapter XI in this proceeding. The number of members of this Class is not known with certainty but is believed to be about Twenty Thousand (20,000) members.

4- The amount of the Class Claim is believed to be about Forty Million (\$40,000,000) Dollars representing the sale of approximately one million (1,000,000) shares of the common stock of the debtor at an average price of Forty Dollars (\$40.00) per share.

5- This claim arises out of the fact that the debtor, during the period involved, filed false reports with the Securities and Exchange Commission, made various mis-statements, improperly stated its earnings and committed various violations of the Securities Acts and committed common-law fraud. Details of the basis of this Claim can be found by a reading of the papers in Civil Action 74 Civil 731 MEF pending in this Court which allegations are incorporated

by reference into this Claim.

6- An action, filed as a Class Action, was filed in this Court on February 14, 1974 which date was less than three (3) years from the date of the prospectus involved and less than one (1) year from the date of the discovery of the facts constituting the fraud. The date of filing of this action was also less than three years from the date of filing of the reports involved. The filing of the Class Claims tolled the Statute of Limitations involved with respect to this Claim.

7- The Claimants do not hold any Security for this Claim.

8- The Claimants contend that AVCO CORPORATION, the claimed major secured creditor of the debtor, is, in fact, not such secured creditor but that the funds supposedly "loaned" to the debtor by AVCO CORPORATION were, in fact, a capital contribution and therefore the claims of this Class are superior to the claims of the said AVCO CORPORATION.

9- The Class is too numerous to be individually joined in this proceeding.

10- The Claimants are competent to represent the Class.

11- There are common questions of law and fact involved herein including (1) whether the reports involved were, in fact, false and misleading, (2) the responsibility of the debtor therefor, (3) the facts set forth in such reports.



12- That no part of this Claim has been paid.

13- That there are no counterclaims or set-offs with respect to this Claim.

14- That the Claimants, are defrauded security holders and, as such, are entitled to the status of creditors of the debtor to a "pari passu" extent.

Yours, etc.

TO: SHEA, GOULD, CLIMENKO & KRAMER  
Attorneys for Debtor  
330 Madison Avenue  
New York NY 10017

BADER and BADER  
Attorneys for Claimants and  
Class Claimants  
274 Madison Avenue  
New York NY 10016

VERIFICATION

STATE OF NEW YORK

ss:

COUNTY OF NEW YORK

EDDIE L. THOMPSON, JR., being duly sworn, deposes and says that he is one of the Claimants herein; that he has read the foregoing Proof of Claim and knows the contents thereof, that the same is true to his own knowledge except as to matters stated therein to be alleged on information and belief and as to those matters he believes them to be true,

Sworn to before me

Eddie L. Thompson, Jr.

this 24th day of July 1974

He

NOTICE OF MOTION TO EXPUNGE CLAIMS 533 and 534  
 UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

-----x	
In the Matter	: Index No. 73 B 679
-of-	: NOTICE OF MOTION TO
	: DISALLOW CLAIMS NO.
CARTRIDGE TELEVISION, INC.,	: <u>533 AND 534</u>
Bankrupt.	:
-----x	

S I R S :

PLEASE TAKE NOTICE that upon the annexed petition of STANLEY TULCHIN, Trustee herein, by his attorneys, dated January 2 , 1975, a motion will come on to be heard before the HON. ASA S. HERZOG, Bankruptcy Judge, in Room 234 of the United States Courthouse, Foley Square, New York, New York, on January 17, 1975 at 11:00 a.m., for an order disallowing Claim No. 533 and Claim No. 534, both of which were filed in this proceeding by certain class claimants, on the ground that they are unliquidated and are not capable of liquidation or reasonable estimation, and that any such liquidation or estimation would unduly delay the administration of this Bankrupt estate, and for such other and further relief as may be proper.

Dated: New York, New York  
 January 3 , 1975

TO: BADER & BADER, ESQS.  
 274 Madison Avenue  
 New York, New York 10016

OTTERBOURG, STEINDLER, HOUSTON  
 & ROSEN, P.C. and

WACHTELL, MANHEIM & GROUF, ESQS.  
 attorneys for Trustee  
 230 Park Avenue  
 New York, New York 10017  
 Tel. (212) 679-1200



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
Index No. 73 B 679  
In the Matter  
-of-  
CARTRIDGE TELEVISION, INC.,  
Bankrupt.

TO THE HONORABLE ASA S. HERZOG, BANKRUPTCY JUDGE:

The petition of STANLEY TULCHIN, by his attorneys,  
respectfully shows:

1. Petitioner is the Trustee herein, having duly qualified and acting as such.

2. Prior to the adjudication herein, the Bankrupt had operated as Debtor-in-Possession, pursuant to an Order of this Court.

3. During the arrangement proceeding, two claims were filed as class claims by the firm of Bader & Bader, Esqs., purportedly on behalf of certain shareholders of the Bankrupt.

4. Claim No. 533, filed in the sum of \$20,000,000.00 claims to be on behalf of a class consisting of diverse persons, firms, corporations, and associations, comprised of about ten thousand (10,000) claimants, who purchased stock of the Bankrupt during an unspecified period of time.

(a) This proof of claim states it is filed pursuant to Rule 23 of the Federal Rules of Civil Procedure which has been incorporated into the Bankruptcy Rules. However, Rule 723 which incorporates Rule 23 of the F.R. Civ. P., concerns only adversary proceedings and in no way makes Rule 23 of the F.R. Civ. P applicable to a normal filing of claims. It should

be noted that the claims docket in the Bankruptcy Clerk's Office has called the claim "Claimant & Class Claimants c/o Bader & Bader, Esqs.".

(b) This claim is founded wholly upon the assertion of fraud in the issuance of a prospectus in connection with the sale to the public of the Bankrupt's common stock.

5. Claim No. 534, filed in the sum of \$40,000,000.00 is likewise filed on behalf of a class of individual claimants consisting of persons, firms, corporations and associations who purchased the common stock of the Bankrupt after the date that the prospectus alleged in the above-mentioned claim was no longer required for sale of the Bankrupt's common stock. It is alleged that this class comprises approximately twenty thousand (20,000) members and the amount is arrived at by estimating the sale of one million (1,000,000) shares of common stock of the Bankrupt at an average price of \$40.00 per share.

(a) This claim likewise refers to Rule 23 of the F.R. Civ. P. and for the reasons set forth above, that rule is not applicable to the filing of claims in a bankruptcy proceeding.

(b) Claim No. 534 is filed on behalf of several individual claimants, as representatives of the rest of the class, and is denoted as "claimants & class claimants, c/o Bader & Bader, Esqs." on the Claims Docket in the Bankruptcy Court.

(c) The claim is based on certain false reports and misstatements allegedly made by the Bankrupt, as well as the commission of what the claim refers to as "common-law fraud."



6. It is clear that both Claim No. 533 and Claim No. 534 are founded wholly on tort liability of the Bankrupt and, as can be seen from the proofs of claim themselves, the respective amounts of \$20,000,000.00 and \$40,000,000.00 are mere approximations which are wholly unliquidated. These claims are clearly unliquidated claims within the meaning of Section 57(d) of the Bankruptcy Act.

7. Petitioner further maintains that in view of the ~~assertions made by the claimants~~ in their proofs of claim, neither Claim No. 533 nor Claim No. 534 is even capable of liquidation or of any reasonable estimation within the meaning of Section 57(d); and further that any method by which the claimants would attempt to liquidate or estimate their claims would most certainly unduly delay the administration of this Bankrupt estate.

WHEREFORE, petitioner respectfully prays an order be made disallowing Claim No. 533 and Claim No. 534 filed herein by various class claimants, and for such other and further relief as may be proper, all for which no previous application has been made.

Dated: New York, New York  
January 2, 1975

STANLEY TULCHIN, Trustee

By: OTTERBOURG, STEINDLER,  
HOUSTON & ROSEN, P.C. &  
WACHTELL, MANHEIN & GROUF, ESQS.  
his attorneys

By: 

OBJECTORS AND PETITIONERS' STIPULATION OF FACTS  
 UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

-----X

In. the Matter	:	
	:	Index No. 73 B 629
-of-	:	
CARTRIDGE TELEVISION, INC.,	:	<u>STIPULATION OF FACTS</u>
Bankrupt.	:	

-----X

With respect to the Trustee's Notice of Motion to disallow Claims No. 533 and 534, the attorneys for the Trustee and the attorneys for the claimants stipulate to the following facts:

1. Claim No. 533 was filed in this proceeding by EDDIE L. THOMPSON, JR. and ROBERT KELLER in the sum of \$20,000,000.00 on behalf of a class consisting of diverse persons, firms, corporations and associations, comprised of approximately 10,000 claimants.
2. Claim No. 533 is based on fraud and alleged violations of the Securities Act in connection with the issuance of the Bankrupt's prospectus.
3. Claim No. 534 was filed in the sum of \$40,000,000.00 by nine (9) specified claimants, for themselves and on behalf of a class comprised of various persons, firms, corporations and/or associations, believed to be about 20,000 in number.



4. Claim No. 534 is based on fraud and alleged violations of the Securities Act in connection with the purchase of approximately 1,000,000 shares of common stock of the Bankrupt at an average price of \$40.00 per share.

5. Claim No. 534 is also founded on alleged false reports filed with the Securities & Exchange Commission and alleged misstatements and misrepresentations with respect to the Bankrupt's earnings.

6. The class of claimants represented in Claim No. 534 purchased their stock after the date that the prospectus, alleged in Claim No. 533, was no longer required for the sale of the Bankrupt's common stock.

7. Claim No. 533 filed in the amount of \$20,000,000.00 and Claim No. 534 filed in the amount of \$40,000,000.00 are both unliquidated claims.

DATED: New York, New York  
March , 1975

OTTERBOURG, STEINDLER, HOUSTON & ROSEN,  
P.C. and WACHTELL, MANHEIM & GROUF, ESQS.  
Co-attorneys for the Trustee

BY: 

BADER & BADER, ESQS.  
Attorneys for Claimants

BY: \_\_\_\_\_

DECISION OF BANKRUPTCY JUDGE HERZOG ON PETITION  
 UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

-----x

In the Matter	:	In Bankruptcy
-of-	:	No. 73-B-679
CARTRIDGE TELEVISION, INC.,	:	
Bankrupt.	:	

-----x

DECISION ON TRUSTEE'S MOTION  
TO DISALLOW CLAIMS NOS. 533 AND 534

APPEARANCES:

OTTERBOURG, STEINDLER, HOUSTON & ROSEN, P.C.  
 and WACHTELL, MANHEIM & GROUF, ESQS.  
 By: CONRAD B. DUBERSTEIN, ESQ.  
 and M. DAVID GRAUBARD, ESQ.  
 Attorneys for Trustee

BADER AND BADER, ESQS.  
 By: W. WALTON BADER  
 Attorneys for Claimants

ASA S. HERZOG, BANKRUPTCY JUDGE:

The trustee has objected to claims No. 533 and  
 No. 534.

Claim No. 533 was filed by Eddie L. Thompson Jr.  
 and Robert Keller in the sum of \$20,000,000.00 on behalf of  
 a class consisting of diverse persons, firms, corporations  
 and associations, comprised of approximately 10,000 claimants.  
 The claim is based on fraud and alleged violations of the



Securities Act in connection with the issuance of a prospectus by the bankrupt. [Stip. ¶¶1,2]

Claim No. 534 is a similar claim filed by nine specified persons for themselves and a class "believed to be" about 20,000, and is based on fraud and alleged violations of the Securities Act in the purchase of some one million shares of bankrupt's stock at the average price of \$40. per share. [Stip. ¶¶3,4] The class represented in Claim No. 534 purchased their stock after the date that the prospectus, alleged in Claim No. 533, was no longer required for the sale of the bankrupt's common stock. [Stip. ¶6]

Both claims are unliquidated as to amount. [Stip. ¶7]

This bankruptcy was originally instituted by filing a petition for an arrangement under Chapter XI of the Act. During the pendency of the chapter case, these claimants instituted two class actions in the United States District Court for the Southern District of New York based on the same causes of action as are asserted in Claims No. 533 and No. 534. The actions were stayed by order of this court, but on application of the plaintiffs, the stay was thereafter lifted and the actions are now pending undetermined in the District Court.

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There is no authority in the statute or Bankruptcy Rules for the filing of a claim on behalf of a class. Section 57a provides that a proof of claim

"shall consist of a statement in writing and signed by a creditor, setting forth the claim;" (emphasis added)

Bankruptcy Rule 301(a) provides that a proof of claim

"shall be executed by the creditor or his duly authorized agent". (emphasis added)

The rule requires that the proof of claim conform substantially to Official Form No. 15. That form contains a clause to be used when made by an agent of the claimant, as follows:

"[If claim is made by agent] The undersigned who resides at ..... is the agent of ..... of ....., and is authorized to make this proof of claim on behalf of the claimant".

The only provision for filing of a multiple claim is founded in Rule 301(a) and that is limited to one for wages, salary or commission. Official Form No. 16 is a proof of claim for just such purpose and such purpose alone.



The persons who made Claims No. 533 and No. 534 are not the "authorized agents" of the class they assume to represent. They have obtained no authority to represent such persons and may not file a proof of claim on behalf of them as a class. Accordingly, insofar as the two claims are filed on behalf of the "various persons, firms, corporations and associations", "comprised of approximately 10,000 claimants in claim No. 533, and "believed to be about 20,000 in number" in claim No. 534, those claims are, to that extent, disallowed.

## II

Claim No. 533 will, therefore, be treated merely as a claim by Eddie L. Thompson Jr. and Robert Keller, and Claim No. 534 will be treated as a claim by the nine specified persons. If the claims are purely in tort, they do not fall within any of the categories of §63 of the Act and are not provable debts. But I will assume arguendo that Claim No. 533, based on fraud and alleged violations of the Securities Act in connection with the debtor's prospectus, is initially provable on the theory of breach of an implied contract, under §63(a)(4), and that Claim No. 534, founded on alleged false reports filed with the Securities and Exchange Commission, and misstatements and misrepresentations with respect

to debtor's earnings, is also initially provable on the theory of breach of implied contract.

As hereinabove noted, both sets of claimants have instituted class actions on the same claims in the United States District Court for the Southern District of New York. The litigation is in its initial stages, the liabilities are contingent and the damages unliquidated in amount. It is not anticipated that the cases will terminate for a number of years. All defendants, as contended by the trustee, are adamantly denying liability and plan to vigorously oppose the claims asserted by the plaintiffs.

Now consider the status of the bankruptcy case: By order of this court dated January 27, 1975 (from which claimants appealed), and affirmed on May 8, 1975 by the District Court, the trustee has, in effect, been authorized to liquidate all the physical assets in this estate. The only remaining matters are objections to claims, and it clearly appears that this case, but for disposition of Claims No. 533 and No. 534, is scheduled for closing within a reasonable period of time.

Section 57d of the Act provides:

"d. Claims which have been duly proved shall be allowed upon receipt by or upon presentation to the court, unless objection



...or unless such claim is proved by the evidence. It is provided, however, that an unliquidated contingent claim shall not be allowed unless the amount thereof is estimated in the petition and within the time directed by the court; and such claim shall not be allowed if the court shall determine that it is not capable of estimation or of reasonable estimation and that such liquidation or estimation would unduly delay the administration of the estate of any party coming under this Act."

Section 54 of the Act on the subject of the provability of a claim by stating:

"Where any contingent or unliquidated claim has been proved, but, as provided in subdivision 4 of Section 53 of this Act, has not been allowed, such claim shall not be deemed provable under this Act."

Therefore, if I find, as I must, that

the question are not capable of estimation or of reasonable estimation or that such liquidation or estimation would unduly delay the administration of the estate of any party coming under this Act, allow the claims, with the exception of those under §121, they can be deemed provable.

Section 54 speaks of "unduly" relating to the administration of the estate. The word "unduly" is a term of court approval. Discretion in allowing time for such liquidation or estimations. The changes effected in the Act as to the time for such liquidation or estimation.

the power to replace liquidation by reasonable estimation, would seem to indicate the intent of Congress to see the court's discretion used in a generous and liberal way, with due regard, however, to the rights of other creditors.

See 3 Collier on Bankruptcy (14th Ed.1975) ¶57.15; Matter of Skidmore, (N.D.Ala.1939), 42 Am.B.R.(NS) 823, 29 F.Supp. 293 rev'd on other grounds sub nom. McAbee v. Isom, (C.C.A., 5th 1941) 44 Am. B.R.(N.S.) 375, 116 F.(2d) 1001). Thompson v. England (C.A.9th, 1955) 226 F.2d 488 (disallowance of claim incapable of liquidation or estimation).

Clearly, the district court is the proper forum to try the issues raised by the claimants. The Bankruptcy Court is not geared for a protracted trial that would be involved and that would bring the administration of hundreds of pending bankruptcy and chapter cases to a halt. The trial of the cases in the district court and ultimate disposition is so distant that I must find that liquidation of the claims would so unreasonably delay the administration of this estate that I must perforce exercise my discretion and pursuant to §§57d and 63d disallow and expunge the claims as nonprovable without prejudice to any determination of the pending class actions in the District Court.



The trustee's objections to the claims are sustained. Settle order in conformity herewith on five days' notice.

DATED: New York, New York  
June 3, 1975

  
\_\_\_\_\_  
BANKRUPTCY JUDGE

-----X

	:	Index #73 B 679
In the Matter	:	
-of-	:	ORDER DISALLOWING AND EXPUNGING CLAIMS NO.
CARTRIDGE TELEVISION, INC.,	:	<u>533 AND 534</u>
Bankrupt.	:	

NOW, upon the petition of STANLEY TULCHIN, Trustee herein, by his attorneys, dated January 2, 1975; the notice of motion thereon, dated January 3, 1975; the affidavit of service on file with this Court; the Answer of EDIE L. THOMPSON, JR., by his attorneys, dated January 14, 1975; the minutes of the hearing held before this Court on January 17, 1975; the stipulation of facts between the co-counsel for the Trustee and counsel for the claimants, dated March 24, 1975; the stipulation restoring motion to calendar between co-counsel for the Trustee and the attorneys for the claimants, dated April 9, 1975; the memoranda of law submitted in support of and in opposition to the motion; the hearing held and minutes taken before this Court on April 14, 1975; and after hearing OTTERBOURG, STEINDLER, HOUSTON & ROSEN, P.C., and WACHTELL MANHEIM & GROUF, ESQS., co-counsel for the Trustee, by M. DAVID GRAUBARD, ESQ., in support thereof, and BADER & BADER, ESQS., attorneys for claimant, by I. WALTON BADER, ESQ., in opposition thereto; and due deliberation having been had thereon; and the Court having rendered its decision, dated June 3, 1975, sustaining the Trustee's objections to Claim No. 533 and



Claim No. 534; and it is further

FOUND, that Claim No. 533 and Claim No. 534, filed herein, are both unliquidated claims; and it is further

FOUND, that Claim No. 533 and Claim No. 534 are both not capable of liquidation or of reasonable estimation and that such liquidation or estimation would unduly delay the administration of this bankrupt estate; and

NOW, on motion of OTTERBOURG, STEINDLER, HOUSTON & ROSEN, P.C., and WACHTELL MANHEIM & GROUF, ESQS., co-counsel to the Trustee herein; it is

ORDERED, that Claim No. 533 be and the same hereby is deemed to be a claim filed individually by EDIE L. THOMPSON, JR. and ROBERT KELLER, and that Claim No. 534 be and the same hereby is deemed to be a claim filed by the nine persons specified therein; and it is further

ORDERED, that Claim No. 533, filed by EDIE L. THOMPSON, JR. and ROBERT KELLER and Claim No. 534, filed by nine specified claimants, both claims purportedly filed as class claims, be and the same hereby are disallowed insofar as the respective proofs of claim represent claims for unidentified persons other than those named in the two claims; and it is further

ORDERED, that Claim No. 533 and Claim No. 534, filed herein, are both disallowed and expunged as claims from this proceeding.

Dated: New York, New York  
June , 1975

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Bankruptcy Judge

NOTICE OF APPEAL TO U.S. DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
In the Matter

In Bankruptcy  
No. 73 B 679

of

JUDGE HERZOG

CARTRIDGE TELEVISION, INC.,

Bankrupt.

NOTICE  
OF  
APPEAL  
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S I R S :

PLEASE TAKE NOTICE that EDDIE L. THOMPSON, JR.,  
EDWARD A. NEFF, SUE MANCINI, DAVID D. ACKERMAN, BILL COPSES,  
BILL DIANGIKES, JOHN F. MAGDA, J. HIRAM JOHNSON, DEAN ELLISON,  
ROBERT KELLER, as Pension Fund Trustee, defrauded stockholders  
of CARTRIDGE TELEVISION, INC., hereby Appeal to the United  
States District Court for the Southern District of New York  
from each and every part of an Order of HONORABLE ASA HERZOG,  
one of the Bankruptcy Judges of the United States District  
Court for the Southern District of New York, said Order being  
made and entered in the Office of the Clerk of the United  
States District Court for the Southern District of New York,  
on January 27, 1975, said Order approving an Offer of  
Compromise proposed by AVCO CORPORATION and superseding an



earlier Order of BANKRUPTCY JUDGE HERZOG of January 22, 1975.

In the event that it is necessary to Appeal from the said Order of January 22, 1975 as well, this Appeal is also being taken from the Provisions of said Order.

Dated: January 29, 1975

Yours, etc.

BADER and BADER  
Attorneys for Objecting  
Stockholders

By: I. Walton Bader

270 Madison Avenue  
New York, N. Y. 10016  
Telephone: (212) LE 2-6800.

TO: Messrs. Levin & Weintraub  
Attorneys for Cartridge Television, Inc.  
225 Broadway  
New York, N. Y. 10007

Messrs. Otterbourg, Stendler Et Al.  
Attorneys for Mr. Stanley Tolchin,  
Trustee for Cartridge Television, Inc.  
230 Park Avenue  
New York, N. Y.

Messrs. Winthrop, Stimson, Et Al.  
Attorneys for Avco Corporation  
40 Wall Street  
New York, N. Y. 10005

Avco Corporation  
1275 King Street  
Greenwich, Connecticut 06830

TO: Messrs. Wachtel, Manheim & Grouf  
Attorneys for Mr. Stanley Tolchin,  
Trustee for Cartridge Television, Inc.  
30 Rockefeller Plaza  
New York, N. Y. 10020



NOTICE OF APPEAL TO U.S. COURT OF APPEALS FOR THE  
SECOND CIRCUIT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In the matter of

No. 73 B 679

CARTRIDGE TELEVISION, INC. Debtor

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NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that EDDIE L. THOMPSON, Jr., ROBERT KELLER, EDWARD A. NEFF, SUE MANCINI, DAVID D. ACKERMAN, BILL COPSES, BILL DIANGIKES, JOHN F. MAGDA, J. HIRAM JOHNSON, and DEAN ELLISON, hereby appeal to the United States Court of Appeals for the Second Circuit from each and every part of an order of HON. KEVIN DUFFY, one of the Judges of the United States District Court for the Southern District of New York, said order affirming the order of Bankruptcy Judge Herzog dismissing and expunging Claims Nos. 533 and 534 made against the debtor herein, said Order being entered in the office of the Clerk of this Court on November 10th, 1975.

Dated : November 12th, 1975

Yours, etc.

TO: OTTERBOURG, STEINDLER, HOUSTON &  
ROSEN  
Attorneys for Debtor  
230 Park Avenue  
New York, N.Y.

BADER and BADER  
Attorney for Appellants  
270 Madison Avenue  
New York, N.Y.  
532-6860

CLERK OF UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK





BADER AND BADER Cartridge TV v. Thompson, Jr. etc.

STATE OF NEW YORK )  
: SS.  
COUNTY OF NEW YORK )

ROBERT BAILEY, being duly sworn, deposes and says, that deponent is not a party to the action, is over 13 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the 13 day of Jan. 1976 deponent served the within Joint Appendix upon:

Otterbourg, Steindler, Houston & Rosen, Esqs.

attorney(s) for

Appellee

in this action, at

230 Park Avenue  
New York, N.Y. 10017

I true copy  
the address(es) designated by said attorney(s) for that purpose by depositing ~~3 true copies~~  
of same enclosed in a postpaid properly addressed wrapper, in an official depository under  
the exclusive care and custody of the United States post office department within the State  
of New York.

Robert Bailey  
Robert Bailey

Sworn to before me, this 13  
day of Jan., 1976.

William Bailey  
WILLIAM BAILEY

Notary Public, State of New York  
No. 43-0132945

Qualified in Richmond County  
Commission Expires March 30, 1976





